

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Steven M. RUBEN

Appl. No.: 10/662,429

Filed: September 16, 2003

For: **Apoptosis Inducing Molecule I**

Confirmation No.: 2663

Art Unit: 1644

Examiner: HUYNH, PHUONG N.

Atty. Docket: 1488.1890003/EJH/SAC

**Supplementary Declaration of Kathryn L. Beckman
Ruben Exhibit #142**

DECLARATION OF KATHRYN L. BECKMAN

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Paper No. _____

Filed on Behalf of Party Ruben

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge Sally Gardner Lane)

STEVEN M. RUBEN

Junior Party,
(Application 08/816,981),

v.

STEVEN R. WILEY and RAYMOND G. GOODWIN

Senior Party,
(Patent No. 5,763,223).

Patent Interference No. 105,077

SUPPLEMENTARY DECLARATION OF KATHRYN L. BECKMAN

Ruben EXHIBIT 2142
Ruben v. Wiley et al.
Interference No. 105,077
RX 2142

SUPPLEMENTARY DECLARATION OF KATHRYN L. BECKMAN

I, Kathryn L. Beckman, hereby declare and state as follows:

1. From February 1995 until June 1998, I was employed by Human Genome Sciences, Inc. (HGS) in the position of Intellectual Property Administrator in the HGS Legal Department. I reported directly to Dr. Robert Benson, who was the head of the Legal Department. My duties as Intellectual Property Administrator included establishing and supervising the operation of HGS's patent docket system, as well as corresponding with outside counsel and HGS scientists regarding the preparation of patent applications. During the 1995 to 1996 time frame, the outside counsel responsible for the vast majority of HGS patent application preparation was the law firm Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein ("Carella") of Roseland, New Jersey.

2. In my Declaration of June 21, 2004 (RE33), at ¶ 7, the phrase "On information and belief" should be replaced with the phrase "Upon my review of the documents cited above." Accordingly, ¶ 7, of my Declaration of June 21, 2004 (RE33), should be replaced with the following statement, which incorporates that correction:

Moreover, each of the individual steps taken by both Carella and HGS were within the standard time period allotted, and in most cases much shorter than the allotted time periods for each step. I sent the questionnaire to Carella on January 31, 1996, requesting at the outset that the application be given "priority over all other applications" that Carella was working on for HGS. RE34 1. This action corresponds to step 1 in the docketing procedure. 1 RE38 3. The next item and date to be docketed according to this procedure is to receive a draft application from Carella within two weeks, so that the draft application could be forwarded to the inventor within this two week period. 1 RE38 4. The application

was received on February 5, 1996 and forwarded to the inventor on February 14, 1996. [RE38]. Thus, the draft application was both received and forwarded to the inventors within the docketed two week time frame. [RE38]. The next item and date to be docketed according to this procedure (step 2) is for the HGS Legal Department to receive a reviewed draft back from the inventor within two weeks of the date it was sent to the inventor. [RE38]. The two week date of Wednesday, February 28, 1996 for receipt of the inventor-reviewed draft was, in fact, docketed. [RE38], wherein the circled "D" denotes "docketed." The purpose of this step was for the Legal Department to obtain adequate feedback on the draft application from the inventor in order to instruct the outside counsel to continue its preparation of the application. Upon my review of the documents cited above, including the Carella billing record for Carella docket number 325800.549 ([RE39]), I conclude that the sufficient feedback was received by the HGS Legal Department on or around the docketed date of Wednesday, February 28, 1996; and pursuant to the instructions of HGS's Legal Department, Carella then began carrying out the further preparation of the application on Monday, March 4, 1996. Finally, the application was further prepared, completed, and filed by Carella about two weeks after the February 28, 1996 docket date (on March 14, 1996), which is much less than the at least five weeks allotted by HGS's usual docketing system for completing these tasks.

[RE38] items 3-8.

4. My duties as Intellectual Property Administrator during the period from February 1995 until June 1998 also encompassed the maintenance of records related to the patent estate of HGS. Accordingly, during that time period, I was very familiar with the routine business practices and procedures established and maintained by HGS with respect to records that HGS generated and kept in its normal course of business related to the patent estate of HGS. Such records, whether generated by or transmitted to HGS,

included correspondence, e.g., letters and e-mails, memoranda, reports, purchase orders, receipts, and other communications related to services rendered by third parties in support of HGS's patent applications. These records were prepared by the individual having the knowledge recorded or by a person to whom that knowledge had been transmitted. In HGS's normal course of business, such records were prepared either contemporaneously or near to the time of the event, act, or acquisition recorded. The preparation and maintenance of such records had been and remained a regular business practice of HGS during my term of employment by HGS.

5. Specific examples of records that it was HGS's regular business practice to make and which are kept in the regular course of HGS's business include, but are not limited to, correspondence with outside counsel, regarding, for example, the preparation and prosecution of patent applications (e.g., RE37), and, as described in ¶ 9 of my Declaration of June 21, 2004 (RE33 submissions to, and communications received from the ATCC® in connection with deposits made in support of HGS's patent applications (e.g., RE40, RE41, and RE42).

6. I have, again, personally reviewed RE37, RE40, RE41, and RE42, to which I referred in my Declaration of June 21, 2004. Based upon that review, I conclude that each of these documents is a copy of a record that HGS kept in its course of regularly conducted business activity and that it is a record that HGS generated in its regular practice of that business activity.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application captioned above or any patent issuing thereupon.

Date:

July 15, 2004

Kathryn L. Beckman
Kathryn L. Beckman

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